

THIS DISPOSITION IS  
NOT CITABLE AS PRECEDENT OF THE  
TTAB

AUG 27, 98

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re ITT Corporation

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Serial No. 74/728,225

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John R. Garber of Cooper & Dunham LLP for ITT Industries,  
Inc.

Theresa K. Kaiser, Trademark Examining Attorney, Law Office  
104 (Sidney Moskowitz, Managing Attorney).

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Before Simms, Walters and Hairston, Administrative Trademark  
Judges.

Opinion by Hairston, Administrative Trademark Judge:

ITT Corporation has filed an application to register  
the designation C-500 in typed capital letters for "heat  
exchangers."<sup>1</sup> In its application, applicant claimed that  
its "mark has become distinctive of applicant's goods by  
virtue of its exclusive and continuous use thereof in

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<sup>1</sup> Application Serial No. 74/728,225 filed September 11, 1995,  
claiming dates of first use of July 1961.

commerce for more than five years prior to the date of the filing of this application."

The Trademark Examining Attorney has refused registration pursuant to Sections 1, 2 and 45 of the Trademark Act on the ground that C-500 functions solely as a model designation, and not as a source identifier. The Examining Attorney dismissed applicant's Section 2(f) evidence of acquired distinctiveness as being insufficient. That evidence consists of the affidavit of applicant's Assistant Secretary, Robert Seitter, and product literature.

When the refusal was made final, applicant appealed. Applicant and the Examining Attorney have filed briefs, but no oral hearing was requested.

In a previously decided appeal involving applicant's application Serial No. 74/728,226, the Board held applicant's showing of acquired distinctiveness therein was sufficient to establish, at a minimum, that applicant's designation C-300 for heat exchangers served a dual purpose. That is, the designation C-300 indicated both a model, style or grade and source of the goods. A copy of the Board's July 24, 1998 decision is attached. The issues and record in the previously decided appeal are virtually identical to those herein. Thus, for the reasons stated in the prior decision, we find that applicant's showing of acquired distinctiveness herein is sufficient to establish, at a

minimum, that applicant's designation C-500 serves a dual purpose of indicating both model number as well as the source of applicant's heat exchangers.

Decision: The refusal to register is reversed.<sup>2</sup>

R. L. Simms

P. T. Hairston

C. E. Walters  
Administrative Trademark  
Judges, Trademark Trial and  
Appeal Board

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<sup>2</sup> We note the Examining Attorney's arguments that the designation C-500 appears after the word "Model" on the specimens and the later submitted product literature shows use of C500 (as part of the mark CENTURY C500) rather than C-500. However, the affidavit of applicant's assistant secretary, the fact that the designation has been used for over thirty years, as well as the fact that the nearly identical C500 is prominently used as a part of a trademark and not merely as a model number are simply more persuasive in this case.

Ser No. 74/728,225